Petitioners

\* BEFORE THE \* ZONING COMMISSIONER \* OF BALTIMORE COUNTY

5th Councilmanic District \* Case No. 92-219-A Scott S. Copinger, et ux

## \* \* \* \* \* \* \* \* \* \*

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (shed) to be located in the side yard and front yard, in lieu of the rear yard, and outside of the third of the lot farthest removed from the street. Further, the Petitioners seek a variance from the strict application of Section 400.1 of the B.C.Z.R., which requires that the accessory structure be located at least 2-1/2 ft. from the side lot line. In lieu thereof, the Petitioners request permission for the accessory structure to be located within 6 inches of the property line. All of these requests are more particularly described on Petitioners' Exhibit No.1.

Appearing on behalf of the Petition were the Petitioners/property owners, Scott S. Copinger and Josephine Copinger. In opposition to the request, James N. Wiest and Helen J. Wiest, property owners of the adjoining property located at 7912 Montrose Avenue, appeared and testified.

Mr. and Mrs. Copinger testified that they have caused to be placed on the property, a  $12 \times 24$  ft. shed. The shed is located on the Copingers' portion of the property which abuts Third Avenue, as shown on

Petitioners' Exhibit No. 1, the plan to accompany the Petition for Zoning Variance. The Copingers further testified that their lot size is .15 acres (+/-) and zoned D.R.5.5. It is improved with an existing dwelling which contains a covered porch and deck. The Petitioners testified that they are in need of increased storage space to store lawn equipment, furniture and other materials. Because of their growing family and the limiting size of their dwelling, they have placed the shed on this lot where indicated.

The Petitioners request the variance because of the peculiar configuration and location of the lot and dwelling thereon. They own a corner property which borders the intersection of Elm Drive and Third Avenue. In fact, if the house was oriented toward Elm Drive, the proposed shed would be in the rear yard. However, in that the front of the house is oriented toward Third Avenue, the requested variance is required. The Petitioners testified that the shed cannot be located elsewhere on the property. In effect, there is no rear yard, because of the deck attached to the rear of the house. Additionally, construction in the side yard adjacent to Elm Drive would adversely affect the neighbors to that side and necessitate the removal of trees which buffer the property.

As to the variance from the regulation requiring that the shed be placed no more than 2-1/2 ft. from the property line, the Petitioners offered little in the way of evidence, other than to state that the shed was placed in its present location when delivered.

Mr. and Mrs. Wiest, the adjoining next door neighbors, testified in opposition to the Petition. They refer to the shed as a "brown monster" which intrudes upon the view from their property. Mr. and Mrs. Wiest did note that they do not live on the adjacent property. However,

- 2-

they indicated that they rent same and believed that it would be hard to find tenants with the shed where located. They also expressed concerns regarding the effect of the shed on their property's value.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioners must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28

As to the front yard/side yard variance, I am persuaded that same should be granted. The evidence presented convinces me that the configuration of the subject lot and orientation of the dwelling thereon, makes the existing location of the shed the only practical portion of the lot where same can be situated. Further, I am persuaded that such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public good.

As to the variance requesting a 6 inch side yard setback, rather than the required 2-1/2 ft., there was no evidence offered to justify same. Thus, I am persuaded that the Petitioners have not met their burden and same must be denied. In making this decision, I am cognizant that the

additional setback will most likely not allay the neighbors fears, nor diminish their objections to the location of the shed. Nonetheless, I am required to rule on each variance based upon the facts presented to me and the applicable regulation. In this instance, the Petitioners have not satisfied their burden to convince me that the shed should not be set back from the property line, as required by the B.C.Z.R. Thus, that portion of the Petition for Zoning Variance shall be denied.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted in part and denied in part.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 27 May of Dec., 1991 that the Petition for Zoning Variance from Section 400.1 of the B.C.Z.R. for permission for the accessory structure (shed) to be located within 6 inches of the property line, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that a zoning variance from Section 400.1 of the B.C.Z.R. to permit an accessory structure (shed) to be located in the side yard and front yard, in lieu of the rear yard, and outside of the third of the lot farthest removed from the street, in accordance with Petitioners' Exhibit No. 1, be and is hereby GRANTED, subject, however, to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) Upon request and reasonable notice, Petitioners shall permit a representative of the Zoning Enforce-

- 3-

ment Division to make an inspection of the subject property to insure compliance with this Order.

> Zoning Commissioner for Baltimore County

LES:mmn

Baltimore County Covernment Zoning Commissioner Office of Planning and Zoning

111 West Chesapeake Avenue Towson, MD 21204

887-3353

December 27, 1991

Mr. and Mrs. Scott S. Copinger 21 Elm Drive

Baltimore, Maryland 21220

RE: PETITION FOR ZONING VARIANCE Case No. 92-219-A

Dear Mr. & Mrs. Copinger:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in part and denied in part, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotto Radcliffe at 887-3391.

> Very truly yours, // Zoning Commissioner

for Baltimore County

cc: Mr. and Mrs. James N. Wiest

Petition for Variance

to the Zoning Commissioner of Baltimore County The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 400- 1 To PERMIT AN ACCESSORY STRUCTURE (SHED)

TO BE LOCATED INTHE SIDE OND FRONT YARD IN HELIOF THE REAR YARD AND OUTSIDE OF THE THIRD OF THE LOT FABTHEST REMOVED FROM THE STEERS AND of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty) X ONED ROOTHNAL SHED SPACE WITH & KIDS FOR BIKES TOYS, TOOLS WIDDERS

LAWN FURNITURE SPARE TIRES ETC. & WITH STORING CASOLINE FOR LAWN TOOLS I FELT THE OLD SHED WAS A SAFETY WAZERO BEING SO CLOSE TO MY HOUSE AND NEIGHBORS O NO MATTER WHERE I WELLS PUT A SHED OVER 180 Sq. FT I WAVE TO FILE FOR A VARIANCE BECAUSE OF FOSITION OF HOUSE ON LET Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon tiling of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

ontract Purchaser/Lessee:	Legal Owner(s):
(Type or Print Name)	SCETT S CEPINGES  (Type or Print Name)
Signature	signature
Address	(Type or Pfint Name)
City and State	Signature Signature
Attorney for Petitioner:	A +12 00
(Type or Print Name)	Address  On 10 m 0
Signature	BAL+0 M.D. City and State
Address	Name, address and phone numbers tract purchaser or representation
City and State	Name 21 C/m David
Attorney's Telephone No.:	Address OFFICE US

574-4722 Phone No. ber of legal owner, con-686-9292 W Frome No. ESTIMATED LENGTH OF HEARING 1/2H

I/We do solemnly declare and affirm,

under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this l'etition.

• CRITICAL

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Contract Purchaser/Lessee

TO MOUSE SIT CARRY CLEARE ON THE LOTS

ZUNING DESCRIPTION

92-219-A

BEGINNING AT A POINT ON THE EAST SIDE OF THIRO ROAD (30' NIDE) AT THE INTERSECTION WITH THE NORTH SIDE OF ELM DRIVE (45"WIDE) BEING LOT 102 IN THE SUBDIVISION OF STANSBURY MANOR PLAT BUUK 13 FOLIO 138 SECTION IN CONTAINING 6,700 89. FT. ALSO KNOWN AS DIELM ORIVE AND LOCATED IN THE 15 EXECTION DISTRICT

Sigt & Copinger, et ay Location of property: Steleur Third Rex Elm Privi Foreign Flom Prido appear 10 Fr. Youdway O. 21. M'serpenty of Paintioner Date of return: 12/6/9/ Posted by .....

> **Baltimore County Government** Office of Zoning Administration and Development Management Office of Planning & Zoning

NOVEMBER 20, 1991

111 West Chesapeake Avenue

Towson, MD 2120+

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 118, Baltimore County Courthouse, 400 Hashington Avenue, Touson, Haryland 21204 as follows:

CASE NUMBER: 92-219-A SEC Third Road and Elm Drive 21 Elm Drive 15th Election District - 5th Councilmenic Petitioner(s): Scott S. Copinger, et ux HEARING: TUESDAY, DECEMBER 17, 1991 at 2:00 p.m.

Variance to permit an accessory structure (shed) to be located in the side and front yard in lieu of the rear yard and outside of the third of the lot farthest removed from the street and to have a 6 inch setback in lieu of the required 2-1/2 feet.

Baltimore County

cc: Scott and Josephine Copinger

CERTIFICATE OF PUBLICATION

) 07. 29 ,19 The Zening Constitutioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will note a public hearing on the property identified herein in Room 118. Baltimore County Courthouse, the County Office Building, 400 Washington Avenue, Towson, Maryland 21204 as follows: THIS IS TO CERTIFY, that the annexed advertisement was publish-

# 10,76

ed in the NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER, weekly newspapers published in Baltimore County, Md. once in each of successive weeks, the first publication appearing on 711-28,1991

> NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER

CERTIFICATE OF PUBLICATION

TOWSON, MD., 199/

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 118, Baltimore County Courthouse, the County Office Building, 400 Washington Avenue, Towson, Maryland 21204 as follows: Case Number: 92-219-A SEC Third Road and Elif Drive
21 Em Drive
15th Election District
5th Councilmanic
Petitioner(s):
Soott S. Copinger, et ux
Hearing Date: Tuesday,
December 17, 1991 at 2:00 Variance: to permit an accessory structure (shed) to be to-cated in the side and front yard in lieu of the rear yard and outside of the third of the tot tarthest re-moved from the street and to have a 6 inch setback in tieu of the required 2-1/2 feet.

Case Number: 92-219-A SEC Third Road and E

Drive
21 Elm Drive
15th Election District
5th Councilmentc
Petitioner(s):
Scott S. Copinger, et ux
Hearing Date: Tuesday,
December 17, 1991 at 2:00

Variance: to permit an ac-cessory structure (shed) to be to-cated in the side and front yard in lieu of the rear yard and outside of the third of the lot farthest re-moved from the street and to have a 6 inch setback in lieu of the required 2-1/2 feet.

LAWRENCE E. SCHMIDT Zoning Convivisioner o Baltimore Count N/J/11/294 November 28.

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of \_\_\_\_ successive weeks, the first publication appearing on  $\frac{20028}{199}$ . 19 $\frac{9}{1}$ .

THE JEFFERSONIAN,

Baltimore County Government
Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

December 10, 1991

(410) 887-3353

Mr. & Mrs. Scott S. Copinger 21 Elm Drive Baltimore, MD 21220

RE: Item No. 229, Case No. 92-219-A Petitioner: Scott S. Copinger, et ux Petition for Variance

Dear Mr. & Mrs. Copinger:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnel.

Baltimore County Zoning Commisioner County Office Building 111 West Chesapouke Avenue Towson, Maryland 21204 40 a 0229 212 19Y PRICE PROBLEM HEART OF PEERS \$35 JO FOLE COMMING TRESTANCE TIBLE 10TAL: \$35.00 MAME OF OWNER, CULINCER Please Make Chickit Payada 31ti Shiftsore County \$35.00 BA CO09:25AM11-12-91

Baltimore County

Zoning Commissioner

County Office Building County Office Building 111 West Chesapeake Avenue

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AND THEFT IS NOT THE Please Make Checks Payable To: Baltimore County

Zoning Plans Advisory Committe Coments Date:December 10, 1991

Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the peition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or imcompleteness.

Attorneys and/or engineers who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the loss of filing fee.

Chairman

JED: jw

Enclosures

Zoning Plans Advisory Committee

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

887-3353

Scott and Josephine Copinger 21 Elm Drive Baltimore, Maryland 21220

DATE: 12-5-91

CASE NUMBER: 92-219-A SEC Third Road and Elm Drive 21 Elm Drive 15th Election District - 5th Councilmanic Petitioner(s): Scott S. Copinger, et ux

Dear Petitioner(s):

THIS FEE MUST BE PAID. ALSO, THE ZOWING SIGN & POST SET(S) MUST BE RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE

Please forward your check via return smail to the Zoning Office, County Office Building, 111 W. Chesapenke Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

Arnold Jablon, Director DATE: November 25, 1991 Zoning Administration and Development Management

Pat Keller, Deputy Director Office of Planning and Zoning

SUBJECT: Mass Transit Administration, Item No. 183 Clayman Property, Item No. 222 Durkee Property, Item No. 223 Blevins Property, Item No. 228 Copinger Property, Item No. 229 Griffith Property, Item No. 230 Sargent/Smith Property, Item No. 232 Starrett Property, Item No. 234

In reference to the Petitioners' request, staff offers no

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/rdn ITEM183/TXTROZ Baltimore County Government Fire Department

700 East Joppa Road Suite 901 Towson, MD 2120+5500

NOVEMBER 25, 1991

(301) 887-4500

Arnold Jablon Director Zoning Administration and Development Management Baltimore County Office Building Towson, MD 21204

RE: Property Owner: SCOTT S. COPINGER

#21 ELM DRIVE Location:

Zoning Agenda: NOVEMBER 26, 1991 Item No.: 229

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: Approved Fire Prevention Bureau Planning Group Special Inspection Division

JP/KEK

BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESFONDENCE

TO: Arnold Jablon, Director DATE: November 26, 1991 Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E.

Moning Advisory Committee Meeting for November 26, 1991

The Developers Engineering Division has reviewed the subject coning items and we have no comments for Items 194 (Jace #91-134-A), 213, 229, 200, 201, 202 and

> Robert Buling BOBERT W. BOWLING, F.E., Chief Developers Engineering Division

BALTIMORE COUNTY ECONOMIC DEVELOPMENT COMMISSION

Memorandum

Julie Winiarski Office of Zoning Administration and

A. J. Haley, Acting Director Chil Economic Development Commission

November 7, 1991

Zoning Advisory Comments for Meeting of November 26, 1991

This office has no comment for items 216, 229, 230, 231, 232, or 234.

XWW 10

ZONING OFFICE

BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT INTER-OFFICE CORRESPONDENCE

DATE: December 13, 1991 TO: Mr. Arnold Jablon, Director Office of Zoning Administration

FROM: J. James Dieter, Director

and Development Management

SUBJECT: Petition for Zoning Variance - Item 229 Copinger Property Chesapeake Bay Critical Area Findings

SITE LOCATION

The subject property is located at 21 Elm Drive in the Wilson Point Community. The site is within the Chesapeake Bay Critical Area and is classified as an Intensely Developed Area (IDA).

APPLICANT'S NAME Scott S. and Josephine M. Copinger

#### APPLICANT PROPOSAL

PLEASE PRINT CLEARLY

The applicant has requested a variance from section 400.1 of the Baltimore County Zoning Regulations to permit an accessory structure (shed) to be located in the side and front yard in lieu of the rear yard and outside of the third of the lot farthest removed from the street, and to have a six inch setback in lieu of the required 2.5 feet.

#### GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

- 1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
- 2. Conserve fish, wildlife and plant habitat; and
- 3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts." <COMAR 14.15.10.01.0>

Memo to Mr. Arnold Jablon December 13, 1991

# REGULATIONS AND FINDINGS

Page 2

Regulation: "No dredging, filling, or construction in any wetland shall be permitted. Any wetland must be adequately protected from contamination" <Baltimore County Code Sec. 22-98>.

Finding: No tidal or non-tidal wetlands were found on this site, or in the vicinity of the site.

Regulation: "A minimum 100 foot buffer shall be established landward from the mean high water line of tidal waters, tidal wetlands, and tributary streams" <Baltimore County Code Sec. 22-213(a)>.

Finding: There are no tidal waters, tidal wetlands, or tributary streams on or within 100 feet of this property.

Regulation: "New development and redevelopment within the IDA shall use Best Management Practices or other technology which reduces pollutant loadings by 10% of the on-site level prior to new development or redevelopment" <Baltimore County Code Sec. 22-216(a)>.

Finding: At present, rooftop runoff is collected in rainspouts and directed to pervious areas to encourage maximum infiltration. Infiltration of stormwater is a recommended Best Management Practice in a "Framework for Evaluating Compliance with the 10% Rule in the Chesapeake Bay Critical Area".

Trees are also an important factor in improving water quality. The roots of trees greatly improve the infiltration rate of storm water and efficiently remove nitrogen from subsurface flows of groundwater. Trees also act as both a barrier and a sponge, blocking and absorbing eroding soils and the phosphorous associated with them. Therefore, the following plant material shall be selected from the enclosed list and planted in additional to existing vegetation.

Small tree list: 2 items - ball and burlap or 2 gallon container size.

Memo to Mr. Arnold Jablon December 13, 1991

## CONCLUSION

The Zoning Variance shall be conditioned so the project proposal is in compliance with the Chesapeake Bay Critical Area Regulations and Findings listed above. This proposal does comply with Chesapeake Bay Critical Area Regulations, and is therefore approved. If there are any questions, please contact Ms. Patricia M. Farr at 887-2904.

JJD:SO:ju Attachment

cc: Mr. and Mrs. Scott Copinger

COPINGER/TXTNSS

92-21 A Dec. 17

BUREAU OF TRAFFIC ENGINEERING DEPARTMENT OF PUBLIC WORKS BALTIMORE COUNTY, MARYLAND

DATE: December 12, 1991

Mr. Arnold Jablon, Director Office of Zoning Administration and Development Management

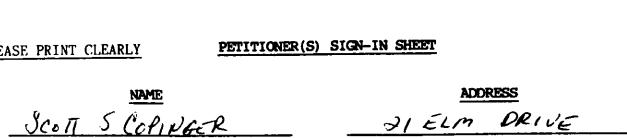
Rahee J. Famili SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: November 26, 1991

This office has no comments for item numbers 216, 229, 230, 231 and 234.

Traffic Engineer II

RJF/lvd



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BALTO. MO. 21220

PROTESTANT (S) SIGN-IN SHEET

Janus n. Wrest	ADDRESS  7912 Mentione (?.c.  Lial to Mid 21237  Lane address

